

REMARKS

The Office Action rejected the pending claims under 35 U.S.C. § 103 as obvious over U.S. patent 5,814,322 (“Sebillotte-Arnaud”) in view of U.S. patent 6,306,407 (“Castro”), and under 35 U.S.C. § 103 as obvious over Castro in view of “Drug Facts and Comparisons.” In view of the following comments, Applicant respectfully requests reconsideration and withdrawal of these rejections.

In the Board of Patent Appeal’s April 28, 2006, decision, the Board found that Sebillotte-Arnaud’s compositions contain a hydrophilic medium or carrier. (See, page 5, lines 1-3 of the Board’s decision). Furthermore, the Board found that Castro’s fibers are present in an oil carrier. (See, page 4, lines 6-8 and footnote 3 of the Board’s decision). Given these disclosures, no motivation would have existed to combine Castro’s fibers (in an oil medium) with Sebillotte-Arnaud’s hydrophilic medium. That is, no motivation would have existed to add an oil-based element from Castro’s compositions to Sebillotte-Arnaud’s hydrophilic compositions. Oil and water don’t mix, and neither do oil-based and water-based components.

In view of the above, and particularly in view of the Board’s findings concerning the disclosure in the cited references, Applicant respectfully requests reconsideration and withdrawal of the rejection based upon Sebillotte-Arnaud and Castro.

Regarding the second rejection, the Office Action combined Castro’s disclosure concerning optionally adding compounds like retinol “and the like” to his compositions with the disclosure in Drug Facts and Comparisons which, the Office Action asserted, equates the activity of retinol with at least some of the claimed active agents. However, this rejection misinterprets the disclosure of the cited references.

Application No. 09/847,388
Response to Office Action dated May 30, 2006

Castro discloses retinol, which is not an active agent against greasy skin. Moreover, as noted by the Board, retinol is not included in the claimed listing of active agents. (See, page 5, lines 22-23 of the Board's decision). Thus, Castro's disclosure related to retinol neither teaches nor suggests any anti-greasy skin active agents, let alone the claimed anti-greasy skin active agents.

Drug Facts and Comparisons cannot compensate for Castro's deficiencies. Contrary to the Office Action's assertion, Drug Facts and Comparisons does not disclose "retinols." Rather, it discloses retinoic acid. Thus, no reason to combine Castro (which discloses retinol) with Drug Facts and Comparisons (which does not relate to retinol in any way) would have existed. What's more, Drug Facts and Comparisons relates to anti-acne active agents, not anti-greasy skin active agents, let alone the specifically claimed anti-greasy skin active agents. Given the fatal deficiencies in these references, one skilled in the art could not possibly arrive at the claimed invention containing the claimed anti-greasy skin active agents.

In view of the above, Applicant respectfully requests reconsideration of the rejection based upon Castro and Drug Facts and Comparisons.

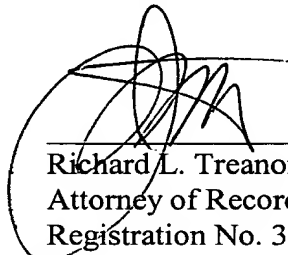
Application No. 09/847,388

Response to Office Action dated May 30, 2006

Applicant believes that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Richard L. Treanor
Attorney of Record
Registration No. 36,379

Jeffrey B. McIntyre
Registration No. 36,867

Customer Number

22850

Tel #: (703) 413-3000

Fax #: (703) 413-2220